

7-5-16: INDIVIDUAL SEWAGE TREATMENT SYSTEMS STANDARDS:

A. Subject to the amendments set forth in this section, Dakota County subsurface sewage treatment system ordinance 113, as amended, is hereby adopted by reference. A copy of the ordinance shall be kept on file in the city offices.

B. The following references in ordinance 113 are replaced:

1. Replace "county" with "city of Lakeville".
2. Replace "county board" with "city council".
3. Replace "Dakota County attorney" with "city attorney".

C. Section 2.06 of ordinance 113 is amended to provide:

"Department" means the building inspection department of the city of Lakeville, its staff and designated agents.

D. Ordinance 113 is amended by adding section 2.26 to provide:

"City" means the city of Lakeville.

E. Section 2.18 of ordinance 113 is amended to provide:

"Shoreland/Floodplain Area" means those areas defined by city ordinance.

F. Section 13.00 of ordinance 113 is amended to provide:

Section 13.00 Hearings

Hearings requested under this ordinance shall be held before a hearing examiner as provided below, and shall be open to the public.

A. **Time Frame For Hearing.** Unless an extension of time is requested by the appellant in writing directed to the city administrator and is granted, the hearing will be held no later than 45 calendar days after the date of service of request for a hearing, exclusive of the date of such service. In any event, such hearing shall be held no later than 90 calendar days after the date of service of request for a hearing, exclusive of the date of such service.

B. **Notice Of Hearing.** The city administrator shall mail notice of the hearing to the appellant at least 15 working days prior to the hearing. Such notice shall include:

1. A statement of time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular section of the ordinance and rules involved.

C. **Hearing Examiner.** The city administrator or administrator's designee shall be the hearing examiner, to conduct the hearing and to make findings of fact, conclusions and recommendations to the city council. The hearing

examiner shall submit the findings of fact, conclusions and recommendations to the city council in a written report and the city council may adopt, modify or reject the report.

- D. **Conduct Of The Hearing.** The appellant and the department may be represented by counsel. The department, the appellant, and additional parties, as determined by the hearing examiner, in that order, shall present evidence. All parties shall have full opportunity to respond to and present evidence, cross-examine witnesses, and present argument. The hearing examiner may also examine witnesses.
- E. **Burden Of Proof.** The department shall have the burden of proving its position by a preponderance of the evidence, unless a different burden is provided by substantive law, and all findings of fact, conclusions, and decision shall be based on evidence presented and matters officially noticed.
- F. **Admission Of Evidence.** All evidence that possesses probative value, including hearsay, may be admitted if it is the type of evidence on which prudent persons are accustomed to rely in the conduct of their serious affairs. Evidence that is incompetent, irrelevant, immaterial or unduly repetitious may be excluded. The hearing shall be confined to matters raised in the department's written notice of suspension, summary suspension, revocation, or denial of a permit, or in the written request for a hearing.
- G. **Pre-Hearing Conference.** At the written request of any party, a pre-hearing conference shall be held. The pre-hearing conference shall be conducted by the hearing examiner. The pre-hearing conference shall be held no later than five working days before the hearing. The purpose of the pre-hearing conference is to:
1. Clarify the issues to be determined at the hearing.
 2. Provide an opportunity for discovery of all relevant documentary, photographic or other demonstrative evidence in the possession of each party. The hearing examiner may require each party to supply a reasonable number of copies of relevant evidence capable of reproduction.
 3. Provide an opportunity for discovery of the full name and address of all witnesses who will be called at the hearing and a brief description of the facts and opinions to which each is expected to testify. If the names and addresses are not known, the party shall describe them thoroughly by job duties and involvement with the facts at issue.
 4. If a pre-hearing conference is held, evidence not divulged as provided above shall be excluded at the hearing unless the party advancing the evidence took all reasonable steps to divulge it to the adverse party prior to the hearing and:
 - a. The evidence was not known to the party at the time of the pre-hearing conference; or
 - b. The evidence is in rebuttal to matters raised for the first time at or subsequent to the pre-hearing conference.
- H. **Failure To Appear.** If the appellant fails to appear at the hearing, appellant shall forfeit any right to a hearing before the city council or hearing examiner. Appellant's failure to appear shall also be deemed as a waiver of appellant's right to appeal the department's decision and the department's decision shall stand.
- I. **Appeal Of City Council Decision.** Any appellant aggrieved by the decision of the city council may appeal that decision to any court with appropriate jurisdiction.
(Ord. 871, 11-1-2010)